



## LEGAL

### Clifton Davies Consultancy Ltd

Clifton Davies Consultancy Limited specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. The views expressed by David Clifton and Suzanne Davies are given without any assumption of liability on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct. **E: dc@cliftondavies.com / sd@cliftondavies.com W: cliftondavies.com**

## Tied into success – the PGB Codes of Practice

**David Clifton, director of Clifton Davies Consultancy Limited, comments on the annual Pub Governing Body audit, the search for the next PCA and the BBPA's recently published benchmarking report**

Those of you with nothing better to do in September than surf the internet might possibly have come across the HM Government Public Appointments page on the Cabinet Office website containing an invitation to apply for the position of Pubs Code Adjudicator (PCA).

The PCA has responsibility to enforce the statutory Pubs Code regulating the relationship between all pub companies owning 500 or more tied pubs in England and Wales and their tied tenants.

With remuneration of between £130,000 and £140,000 a year and a potential option to agree an alternative working pattern with a minimum commitment of four days a week, is that an irresistible offer? I'm not so sure. After the opposition from all sides that Paul Newby, the current PCA, has encountered since he was appointed in 2016, I wouldn't like the job.

For anyone champing at the bit, you're too late. Not only was the deadline for applications 29 September, but the scheduled final interview date has already passed. By the time you read this, the appointment of the new PCA may well have been announced. Good luck to him or her, whoever they may be.

Less prominent in the pub industry media headlines has been the Pub Governing Body (PGB), provided by six of the industry's leading associations representing both landlords and tenants. Responsible for 'promoting the advancement and improvement of Landlord (Pub Owning Companies) and tied tenant relationships in the licensed retail sector', the PGB sets out to achieve this by publishing codes of practice to which signatory companies that own between one and 499 tied pubs in England and Wales, and the majority of tied pubs in Scotland, must adhere.

Indeed, adherence to the codes (setting the minimum standards for landlords) is a condition of membership by those companies of both the British Beer & Pub Association (BBPA) and the Independent Family Brewers of Britain.

At the end of November, the PGB published its third annual audit report, covering the period 1 August 2018 to 31 July 2019. The good news is that the PGB found there to be 'strong' levels of compliance from the companies governed by the codes – with 'full compliance' reported for business plans (483 of which were completed by incoming tenants in the survey period) – and the number of rent reviews (268) negotiated and settled within the audit period, with just two still under negotiation in England and Wales and seven in Scotland.

Overall, there were no referrals to the Pubs Independent Conciliation and Arbitration Service during the survey period and just one referral to the Pub Industry Rent Review Scheme. The PGB also reported an 'excellent' improvement in the number of operators trained to the required standard.

During their pre-entry awareness training, potential new tenants of PGB signatory members (a list of whom is available on the PGB website) will be referred to the availability of industry benchmarking reports that provide information on typical operating costs in the tied pub sector.

The most recent benchmarking report was published by the BBPA at the end of November. Essential reading material, it is freely available on the BBPA website but, as the PGB makes clear, prospective tenants must always demonstrate before accepting a tenancy that they have taken proper independent professional advice.

## QUESTIONS & ANSWERS

**Q: Can a licensing authority take away a gaming machine permit?**

**A:** It recently did so in the case of a Wetherspoon pub that, in addition to its automatic entitlement to two machines, had obtained a licensed premises gaming machine permit for up to seven additional machines. However, it lost that permit after Redbridge Licensing Committee was told about two test purchase failures when police cadets under the age of 16 had been able to use two machines without being challenged. Given the warning from the Gambling Commission in November 2018 after tests showed that almost 90% of pubs in England and Wales failed to prevent children accessing machines, it is surprising that no greater penalty was incurred. I wrote about this same subject in the October edition of Pub & Bar, emphasising how important it is that pubs comply with the codes of practice in the Social Responsibility Charter for Gaming Machines in Pubs, jointly published by UKHospitality and the BBPA.

**Q: Where can I get advice on providing better customer accessibility to my pub?**

**A:** For initial advice, you need go no further than the BBPA's website because it has recently published very helpful updated guidance on this very subject. It also includes advice on employing people with disabilities, staff training and the importance of providing accurate online information for prospective customers.

**Q: Are we going to get extended hours on VE Day?**

**A:** It certainly looked highly likely that would be the case following an announcement by the Home Secretary in November of a proposed consultation on the subject. However, as I write this, a General Election is looming and certainty on many things has flown out of the window. Nevertheless, I would be very surprised if the incoming government does not press ahead with plans to allow pubs and bars in England and Wales to trade until 1am on the nights of Friday 8 May and Saturday 9 May to mark the 75th anniversary of VE Day, consistent with moving the early May bank holiday from 4 to 8 May.